IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WA.No. 27 of 2006()

AGAINST THE JUDGEMENT IN WPC.14971/2004 Dated 18/11/2005
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APPELLANT: PETITIONER:

SAROJINI, AGED 55 YEARS,
W/O. RAMAKRISHNAN, EDAYILLAKAD, SREERANJI HOUSE,
VALIYAPARAMBA P.O., PADANNA (VIA), KASARAGOD.

BY ADV. SRI.M.SASINDRAN

RESPONDENTS: RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,DEPARTMENT OF GENERAL EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE ACCOUNTANT GENERAL (A & E) KERALA,
OFFICE OF THE ACCOUNTANT GENERAL (A & E),
THIRUVANANTHAPURAM-695 039.

3. THE ASSISTANT EDUCATIONAL OFFICER,
CHERUVATHOOR, KASARAGOD.

BY GOVERNMENT PLEADER SHRI. SANDESH RAJA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 25/5/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Order on IA 63/06 in WA No.27/06

Dismissed.

Sd/- K.S.Radhakrishnan,Judge.

Sd/- Antony Dominic, Judge.

25/5/2007

K.S.Radhakrishnan
&
Antony Dominic, JJ.
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W.A.No.27 of 2006
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Dated this the 25th day of May, 2007.

JUDGMENT

Radhakrishnan,J.

Petition was preferred by the appellant herein seeking a writ of certiorari to quash Ext.P1 to the extent it declines to reckon a portion of the provisional service of the petitioner for the purpose of pensionary benefits and also for a writ of mandamus directing the second respondent to reckon the entire provisional service rendered by the petitioner as qualifying service for pension and to recalculate the pensionary benefits of the petitioner.

2. The first respondent referred to the decision in W.A.No.337 of 1992 and prayed for the dismissal of the writ petition. It was submitted that the period of provisional service shall not be reckoned as qualifying service for pension. Further it was stated that as per G.O.(P) No.2357/99/Fin dated 25.11.1999, the provisional service with or without break rendered by the employees upto 30.9.2004, which qualifies for earning increments in terms of Government decision No.2 under Rule 33 Part I K.S.R., will be reckoned as qualifying service for pension irrespective of date of retirement. On verification of service book of the petitioner, it was noted that the provisional service of the petitioner was not admitted for increments and hence it was not admitted for pension. It is not clear as to why the provisional service

of the petitioner was not be reckoned as qualifying service for granting increments.

3. The question as to whether the service rendered by the petitioner is qualified for granting increments has to be considered first, then only it can be decided whether it can be reckoned for the purpose of calculating pension. Since this aspect has not been properly considered, the petitioner is given an opportunity to file a detailed representation before the concerned Secretary of the first respondent. If a representation is filed within one month from today, the same will be considered within a period of three months from the date of receipt of the representation and pass appropriate orders in accordance with law.

Writ Appeal is disposed of as above.

K.S.Radhakrishnan,
Judge.

Antony Dominic
Judge.

ess 25/5